## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:17-cv-63-FDW

JIMMY ALLEN ROBERTS,	)
Plaintiff,	)
vs.	) ORDER
FRANK L. PERRY, et al.,	) )
Defendants.	) )

**THIS MATTER** comes before the Court on Defendants' Motion to Substitute Party, (Doc. No. 44), and the *pro se* Plaintiff's Motion for Extension of Time, (Doc. No. 51), and "Motion for Advise [sic]," (Doc. No. 55).

Counsel for Defendants moves to substitute former Secretary of the North Carolina Department of Public Safety Frank L. Perry and Director of Prisons Kenneth Lassiter with Erik Hooks and Todd Ishee, who presently hold those respective positions. The substitution of these parties is "automatic[]" and the Clerk will be instructed to substitute the names accordingly. Fed. R. Civ. P. 25(d).

Plaintiff has filed a Motion for Extension of Time within which to respond to Defendants' Motion for Summary Judgment. (Doc. No. 51). The extension will be granted for good cause shown until June 26, 2020. No further extension will be granted except of a showing of extraordinary circumstances.

In his "Motion for Advise [sic]," (Doc. No. 55), the Plaintiff appears to seek the appointment of counsel. There is no absolute right to the appointment of counsel in civil actions such as this one. Therefore, a plaintiff must present "exceptional circumstances" in order to require

the Court to seek the assistance of a private attorney for a plaintiff who is unable to afford counsel.

Miller v. Simmons, 814 F.2d 962, 966 (4th Cir. 1987). Petitioner has failed to demonstrate the

existence of exceptional circumstances that would warrant the appointment of counsel at this

juncture and this Motion will be denied.

IT IS, THEREFORE, ORDERED that:

1. Defendants' Motion to Substitute Party, (Doc. No. 44), is **GRANTED**. The Clerk is

instructed to correct the docket to indicate that Frank L. Perry and Director of Prisons

Kenneth Lassiter have been substituted with Erik Hooks and Todd Ishee.

2. Plaintiff's Motion for Extension of Time, (Doc. No. 51), within to respond to

Defendants' Motion for Summary Judgment is **GRANTED** until June 26, 2020.

3. Plaintiff's "Motion for Advise [sic]," (Doc. No. 55), is construed as a Motion for the

Appointment of Counsel and is **DENIED**.

Signed: May 29, 2020

Frank D. Whitney

Chief United States District Judge